



1645  
#31  
Docket No.: PB340P2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
Choi et al.

Application No.: 08/961,083

Group Art Unit: 1645

Filed: October 30, 1997

Examiner: Jana A. Hines

For: Streptococcus pneumoniae SP036  
Polynucleotides, Polypeptides, Antigens and  
Vaccines (As Amended)

TECH CENTER 1000/2900

2003

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**PROVISIONAL ELECTION WITH TRAVERSE UNDER 37 C.F.R. § 1.143**

Commissioner for Patents  
Washington, D.C. 20231

Sir:

In response to the Office Action mailed March 6, 2003 (Paper No. 30), please consider the following remarks and provisional election, *with traverse*.

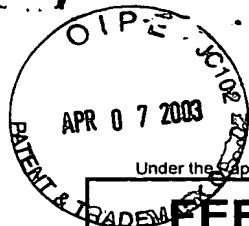
**Remarks**

Claims 17, 18, and 198-268 are allowed.

Despite the fact that substantive examination in this case was made final with the mailing of a notice of allowance on February 1, 2000, the Examiner has issued a restriction requirement more than three years later, separating the allowed claims into four different groups. Group I is defined as claims 17 and 265-268, drawn to methods of attenuating an infection. Group II is defined as claim 18, drawn to a method of detection. Group III is defined as claims 198-233 and 236, drawn to isolated polynucleotides and vectors. Group IV is defined as claims 234-235 and 237-264, drawn to isolated polypeptides and methods of using them. *See*, Paper No. 30, page 2.

Applicants respectfully traverse the present restriction requirement.

The time for a restriction requirement is specified in 37 C.F.R. § 1.142(a), which states: "Such requirement will normally be made before any action on the merits; however, it may be made at any time before final action." Emphasis added. Applicants submit that the



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PTO/SB/17 (01-03)  
Approved for use through 04/30/2003. OMB 0651-0032

<b>FEE TRANSMITTAL</b> <b>for FY 2003</b> <small>Patent fees are subject to annual revision.</small>		<b>Complete if Known</b>																																																																																																																																																																																																																																																																																																											
<div style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27</div> <div style="border: 1px solid black; padding: 5px;"><b>TOTAL AMOUNT OF PAYMENT</b> (\$ ) 0.00</div>		Application Number	08/961,083																																																																																																																																																																																																																																																																																																										
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		First Named Inventor	Gil H. Choi																																																																																																																																																																																																																																																																																																										
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<div style="display: flex; justify-content: space-between;"><div><b>METHOD OF PAYMENT</b> (check all that apply)<div style="display: flex; flex-wrap: wrap;"><div><input type="checkbox"/> Check</div><div><input type="checkbox"/> Credit Card</div><div><input type="checkbox"/> Money Order</div><div><input type="checkbox"/> Other</div><div><input type="checkbox"/> None</div></div><div><input checked="" type="checkbox"/> Deposit Account Deposit Account Number: 08-3425 Deposit Account Name: Human Genome Sciences, Inc. <small>The Commissioner is hereby authorized to: (check all that apply)</small><div style="display: flex; justify-content: space-between;"><div><input checked="" type="checkbox"/> Charge fee(s) indicated below</div><div><input checked="" type="checkbox"/> Credit any overpayments</div></div><div><input checked="" type="checkbox"/> Charge any additional fee(s) during the pendency of this application</div><div><input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.</div></div></div></div> <div><b>FEE CALCULATION</b><div><b>1. BASIC FILING FEE</b><table border="1" style="width:100%; border-collapse: collapse;"><thead><tr><th colspan="2">Large Entity</th><th colspan="2">Small Entity</th><th rowspan="2">Fee Description</th><th rowspan="2">Fee Paid</th></tr><tr><th>Fee Code</th><th>Fee (\$)</th><th>Fee Code</th><th>Fee (\$)</th></tr></thead><tbody><tr><td>1001</td><td>750</td><td>2001</td><td>375</td><td>Utility filing fee</td><td></td></tr><tr><td>1002</td><td>330</td><td>2002</td><td>165</td><td>Design filing fee</td><td></td></tr><tr><td>1003</td><td>520</td><td>2003</td><td>260</td><td>Plant filing fee</td><td></td></tr><tr><td>1004</td><td>750</td><td>2004</td><td>375</td><td>Reissue filing fee</td><td></td></tr><tr><td>1005</td><td>160</td><td>2005</td><td>80</td><td>Provisional filing fee</td><td></td></tr><tr><td colspan="4"><b>SUBTOTAL (1)</b></td><td>(\$ )</td><td>0.00</td></tr></tbody></table></div><div><b>2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE</b><div style="display: flex; justify-content: space-between;"><div><small>Total Claims</small> <input type="text"/> -20** = <input type="text"/> x <input type="text"/> = <input type="text"/> <small>Independent Claims</small> <input type="text"/> -3** = <input type="text"/> x <input type="text"/> = <input type="text"/> <small>Multiple Dependent</small> <input type="text"/> = <input type="text"/></div><div><table border="1" style="width:100%; border-collapse: collapse;"><thead><tr><th colspan="2">Large Entity</th><th colspan="2">Small Entity</th><th rowspan="2">Fee Description</th><th rowspan="2">Fee Paid</th></tr><tr><th>Fee Code</th><th>Fee (\$)</th><th>Fee Code</th><th>Fee (\$)</th></tr></thead><tbody><tr><td>1202</td><td>18</td><td>2202</td><td>9</td><td>Claims in excess of 20</td><td></td></tr><tr><td>1201</td><td>84</td><td>2201</td><td>42</td><td>Independent claims in excess of 3</td><td></td></tr><tr><td>1203</td><td>280</td><td>2203</td><td>140</td><td>Multiple dependent claim, if not paid</td><td></td></tr><tr><td>1204</td><td>84</td><td>2204</td><td>42</td><td>** Reissue independent claims over original patent</td><td></td></tr><tr><td>1205</td><td>18</td><td>2205</td><td>9</td><td>** Reissue claims in excess of 20 and over original patent</td><td></td></tr><tr><td colspan="4"><b>SUBTOTAL (2)</b></td><td>(\$ )</td><td>0.00</td></tr></tbody></table></div></div><div><small>**or number previously paid, if greater; For Reissues, see above</small></div></div><div><b>3. 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Hymel</td><td>Registration No. (Attorney/Agent)</td><td>45,414</td><td>Telephone</td><td>(301) 251-6015</td></tr> <tr><td>Signature</td><td></td><td>Date</td><td>April 7, 2003</td><td></td><td></td></tr>				Large Entity		Small Entity		Fee Description	Fee Paid	Fee Code	Fee (\$)	Fee Code	Fee (\$)	1001	750	2001	375	Utility filing fee		1002	330	2002	165	Design filing fee		1003	520	2003	260	Plant filing fee		1004	750	2004	375	Reissue filing fee		1005	160	2005	80	Provisional filing fee		<b>SUBTOTAL (1)</b>				(\$ )	0.00	Large Entity		Small Entity		Fee Description	Fee Paid	Fee Code	Fee (\$)	Fee Code	Fee (\$)	1202	18	2202	9	Claims in excess of 20		1201	84	2201	42	Independent claims in excess of 3		1203	280	2203	140	Multiple dependent claim, if not paid		1204	84	2204	42	** Reissue independent claims over original patent		1205	18	2205	9	** Reissue claims in excess of 20 and over original patent		<b>SUBTOTAL (2)</b>				(\$ )	0.00	Large Entity		Small Entity		Fee Description	Fee Paid	Fee Code	Fee (\$)	Fee Code	Fee (\$)	1051	130	2051	65	Surcharge - late filing fee or oath		1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet		1053	130	1053	130	Non-English specification		1812	2,520	1812	2,520	For filing a request for ex parte reexamination		1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action		1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action		1251	110	2251	55	Extension for reply within first month		1252	410	2252	205	Extension for reply within second month		1253	930	2253	465	Extension for reply within third month		1254	1,450	2254	725	Extension for reply within fourth month		1255	1,970	2255	985	Extension for reply within fifth month		1401	320	2401	160	Notice of Appeal		1402	320	2402	160	Filing a brief in support of an appeal		1403	280	2403	140	Request for oral hearing		1451	1,510	1451	1,510	Petition to institute a public use proceeding		1452	110	2452	55	Petition to revive - unavoidable		1453	1,300	2453	650	Petition to revive - unintentional		1501	1,300	2501	650	Utility issue fee (or reissue)		1502	470	2502	235	Design issue fee		1503	630	2503	315	Plant issue fee		1460	130	1460	130	Petitions to the Commissioner		1807	50	1807	50	Processing fee under 37 CFR 1.17(q)		1806	180	1806	180	Submission of Information Disclosure Stmt		8021	40	8021	40	Recording each patent assignment per property (times number of properties)		1809	750	2809	375	Filing a submission after final rejection (37 CFR 1.129(a))		1810	750	2810	375	For each additional invention to be examined (37CFR 1.129(b))		1801	750	2801	375	Request for Continued Examination (RCE)		1802	900	1802	900	Request for expedited examination of a design application		Other fee (specify) _____						<b>SUBTOTAL (3)</b>				(\$ )	0.00	<b>SUBMITTED BY</b>		<b>Complete (if applicable)</b>		Name (Print/Type)	Lin J. 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